IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23117 of 2004

Between:

P. Nageswara Rao, S/o. Late Suryanarayana,
E.No. 0849, engineering College Hostels, Andhra University, Visakahaptnam (Under Suspension),
R/o H.No. 53-11-30, Atchi VAri Veedhi, Maddilapalem, Visakhapatnam-13.

..... PETITIONER

AND

1 Station House Officer, Malakpet Police Station, Hyderabad City, Hyderabad.
2 Commissioner of Police, Hyderabad City, Hyderabad.
3 Vice Chancellor, Andhra Univeristy, Visakhapatnam
4 Joint Registrar, Andhra Univeristy, Visakhapatnam

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ or Order or direction particularly a Writ in the nature of Mandamus by declaring the Proceedings issued in Crime No. 218/2003 by the 1st Respondent against the Petitioner and consequential proceedings issued by the Respondents 3 and 4 in Proceedings No.S.III(1)/8133/2003 dated 19-11-2003 suspending the Petitioner from Service as Senior Assistant, E.No. 0849, Engineering College Hostels, Andhra University, Visakhapatnam as illegal and arbitrary and set aside the same and to pass such other order or orders

Counsel for the Petitioner:MRS.SOFIA BEGUM

Counsel for the Respondent Nos .1 & 2 GOVERNMENT PLEADER FOR HOME

Counsel for the Respondent Nos .3 & 4 : Dr.P.B.VIJAYA KUMAR

The Court at the stage of admission, made the following :

ORDER:

This writ petition is filed to issue a writ of mandamus declaring the action of the 1st respondent in issuing proceedings in Crime No.218 of 2003 and consequential proceedings issued by respondent Nos.3 and 4 dated 19.11.2003 for placing the petitioner under suspension as illegal and arbitrary.

Police registered a case under Sections 468, 471 and 420 IPC against the writ petitioner and some others. In pursuance of the registration of the case, the petitioner was arrested and detained in judicial custody for more than 48 hours. Therefore, the impugned proceedings have been passed by the respondents on 19.11.2003, whereby the petitioner was kept under suspension.

The learned counsel for the petitioner vehemently contended that no disciplinary action has been taken. After placing the petitioner under suspension, subsistence allowance is not being paid to the writ petitioner and that in order to deprive promotion to the writ petitioner, the present criminal case has been foisted against the petitioner and prays to quash the said proceedings.

On the other hand, the learned counsel for the respondent contended that it is only a suspension pending enquiry and as the petitioner was arrested and detained in the judicial custody for more than 48 hours, he was placed under suspension. The action therefore does not suffer from any incurable legal infirmities so as to call for

interference by this Court.

The facts are not in dispute. However on registering the criminal case police arrested the petitioner and sent to judicial custody. He was detained in police Judicial custody for more than 48 hours. He was placed under suspension by the impugned proceedings. The authority or the jurisdiction of the person who passed the impugned proceedings is not under challenge. The only grievance of the petitioner is that the respondent-university is not taking any action in completing or conducting the disciplinary proceedings. The respondent-University is bound to conduct enquiry and also bound to pay subsistence allowance to the petitioner. The petitioner is entitled for the subsistence allowance as a matter of right. Since jurisdiction of the person who issued the impugned proceedings is not under challenge, the impugned proceedings cannot be quashed since it is a suspension pending enquiry.

Therefore, the writ petition is disposed of directing the respondent to conduct enquiry within a period of three months from the date of receipt of a copy of this order. In the meanwhile, the respondent-University is directed to pay subsistence allowance to the petitioner in accordance with its rules.

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14.12.2004

bsv

To

1 Station House Officer, Malakpet Police Station, Hyderabad City, Hyderabad.
2 Commissioner of Policy, Hyderabad City, Hyderabad.
3 Vice Chancellor, Andhra Univeristy, Visakhapatnam
4 Joint Registrar, Andhra Univeristy, Visakhapatnam

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